HONOURABLE SRI JUSTICE B. SESHASAYANA REDDY

WRIT PETITION No.17571 OF 2005

Dated 16-12-2005

Between :

1 . T. Venkateswarlu son of Yellaiah, aged 50 years, Occupation : Cultivation, residentof Pidikitavanipalli village, Pullalacheruvu Mandal, Prakasam District and others.

….Petitioners.

And :

1. District Collector, Prakasam District, Ongole and others.

…..Respondents.

ORDER :

When the W.P.M.P. No.34453 of 2005 came up for consideration, with the consent of both the counsel, the writ petition is taken up for hearing and disposed of by this order.

2. This writ petition has been filed by T. Venkateswarlu with a prayer to issue a writ, order or direction more particularly one in the nature writ of mandamus declaring the action of the respondents in recommending and taking steps for acquisition of the petitioner's land covered by Sy.No.240/A1 of Pidikitavanipalli village for formation of road inspite of existing Government road and without considering his representation/objections dated 24-2-2005 as illegal and arbitrary.

3. The petitioner claims that he is the owner, possessor and enjoyer of Ac.03-00 cents of land comprising Sy.No.240/A of Pidikitavanipalli village. He apprehends of the Government taking possession of his land for the cause of formation of road without following the due procedure and therefore, he approached this Court by invoking jurisdiction under Article 226 of the Constitution of India with a prayer stated supra.

4. The respondents filed counter-affidavit.

It is stated in the counter-affidavit that the land in question is an assigned land having been assigned to one Naru Venkatayya and the said Venkatayya sold the assigned land in contravention of the provisions of A.P. Assigned Lands Act, 1977. I deem it appropriate to refer relevant portion of the counter-affidavit and it is thus :

> "Accordingly, the Mandal Revenue Officer, Pullalacheruvu has sought permission from the Revenue Divisional Officer, Markapur to acquire land in S.No.240/A to an extent of Ac.0.33 cts. at a width of 24 links from Eastern to Western side, so that the proposed path way will be provided through S.No.240/A etc., as the land owners in S.Nos.250, 249, 253 and 254 have voluntarily came forward to relinquish without any compensation. Thereafter, the Revenue Divisional Officer, Markapur has inspected the land and found that there is dire necessity to initiate Land Acquisition Proceedings to acquire land in S.No.240/A for an extent of Ac.0.33 cts. and accordingly instructed the Mandal Revenue Officer, Pullalacheruvu to submit Draft Notification and Draft Declaration proposals for acquisition of the said extent. Pursuant to the instructions of the Revenue Divisional Officer, Markapur the Mandal Revenue Officer, has submitted Draft Notification and Draft Declaration proposals for acquisition of an extent of Ac.0.33 cts in S.No.240/A of Pidikitivanipalli H/o. Chapalamadugu village vide his Rc.No.388/05, dt.27-1-2005 to the District Collector through the Revenue Divisional Officer, Markapur for approval. Thereafter the Mandal Revenue Officer, Pullalacheruvu verified all the Revenue Records. After careful verification of all Revenue Records, the Mandal Revenue Officer, found that the land measuring an extent of Ac.4.91 cts. In S.No.240/A is originally classified as Government land and the Government had assigned the said land in favour of Sri Naru Venkataiah, S/o. Govindu and changes were incorporated in RSR, that the said land was alienated in favour of one person to another from time to time in contravention of AP Assigned lands (POT) Act, 1977 and patta stood in favour of Sri Chilakam Venkaiah and thereupon the name of Jonnalagada Venkataih was recorded as pattadar in 10 (1) and the name of Thontla Yellaiah, son of Venkataiah was shown as enjoyer in Adangal that finally Thontla Yellaiah alleged to have been purchased the said land from Jonnalagada Venkaiah through an unregistered agreement and enjoying the property since a long time and that Thontla Venkateswarlu the present petitioner succeeded to the said property. In fact the said property is a Government land. Hence the Mandal Revenue Officer, has reported to the Revenue Divisional Officer, Markapur stating that the land is a Government land and the petitioner has no right or title over the said property. At that stage the petitioner with a deliberate intention to retain the possession of the Government land unauthorizedly, has filed the present writ petition and obtained status quo orders."

5. Heard the learned counsel for the petitioner and the learned Government Pleader for land acquisition appearing for the respondents.

6. The learned counsel for the petitioner submits that the father of the petitioner

purchased the land about some years back and since then, the land is in possession and enjoyment of the petitioner. The learned counsel further submits that the petitioner submitted a representation dated 24-02-2005 to the respondents and the respondents, without passing any orders on the representation, are proceeding to take possession of the property.

7. The learned Government Pleader for Land Acquisition submits that the land in question is an assigned land and since the original assignee sold the property in contravention of the provisions of A.P. Assigned Lands Act, 1977 , the petitioner is not entitled to be in possession of the property.

8. A fact remains that the representation submitted by the petitioner is pending before the respondents.

9. In that view of the matter, I deem it appropriate to dispose of the writ petition directing the respondents to consider the representation/Objections dated 24.2.2005 and pass appropriate orders within six weeks from the date of receipt of a copy of this order. No costs.

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Justice B.SESHASAYANA REDDY

Date : 16-12-2005.

Dvs

HONOURABLE SRI JUSTICE B. SESHASAYANA REDDY

Dated 16-12-2005